

NOT INCLUDED
IN BOUND VOLUMES

PHG
Chicago, IL

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

OUR LADY OF THE RESURRECTION
MEDICAL CENTER

Employer

and

CASE 13-RC-22035

AFSCME COUNCIL 31, AMERICAN
FEDERATION OF STATE, COUNTY,
AND MUNICIPAL EMPLOYEES, AFL-CIO

Petitioner

DECISION AND CERTIFICATION OF RESULTS OF ELECTION

The National Labor Relations Board, by a three-member panel, has considered objections to an election held on June 29 and 30, 2011, and the hearing officer's report recommending disposition of them. The election was conducted pursuant to a Stipulated Election Agreement. The tally of ballots shows 98 for and 159 against the Petitioner, with 16 challenged ballots, an insufficient number to affect the results.

The Board has reviewed the record in light of the exceptions¹ and briefs, has adopted the hearing officer's findings² and recommendations³, and finds that a certification of results of election should be issued.

¹ The Union has excepted to some of the hearing officer's credibility findings. The Board's established policy is not to overrule a hearing officer's credibility resolutions unless the clear preponderance of all the relevant evidence convinces us that they are incorrect. *Stretch-Tex Co.*, 118 NLRB 1359, 1361

CERTIFICATION OF RESULTS OF ELECTION

IT IS CERTIFIED that a majority of the valid ballots have not been cast for AFSCME Council 31, American Federation of State, County, and Municipal

(1957). We have carefully examined the record and find no basis for reversing the findings.

There are no exceptions to the hearing officer's recommendations to overrule Objections 9 and 12-15.

² In adopting the hearing officer's findings, we do not rely on his findings regarding employees' subjective reactions to the alleged objectionable conduct. *Lake Mary Health and Rehabilitation*, 345 NLRB 544, 545 (2005) ("The Board has long held that the subjective reactions of employees are irrelevant to the question of whether there was in fact objectionable conduct.").

³ In overruling the objections, we note that certain conduct alleged in Objections 6, 7, and 10 was objectionable. Specifically, we find objectionable the Employer's removal of union literature from the break room, the interrogations by Drs. Vishnu Chundi and Fadi Habib, and the comment by Director of Surgical Services Sherry Chillis that employee Laura Buenrostro should keep her opinions about the Union to herself. Nevertheless, we overrule these objections because there is insufficient evidence that this conduct, considered individually or cumulatively, could have affected the election. Similarly, with respect to Chief Executive Officer Martin Judd's statements about vacation scheduling (Objection 3), we agree with the hearing officer's finding that, even if Judd's statements exceeded the permissible bounds of Sec. 8(c), the statements, even considered together with the Employer's other conduct, could not have affected the election.

Member Hayes finds it unnecessary to decide whether the conduct alleged in Objections 3, 6, 7 and 10 was objectionable. He agrees with his colleagues that the conduct alleged there, even if objectionable, could not have affected the outcome of the election.

Finally, with respect to Objection 11, we note that the hearing officer did not credit the testimony that Dr. Shirish Shah threatened that the hospital would close if the Union won the election. We further note that the Employer posted a letter acknowledging that it was aware of the rumors regarding hospital closure and reassured the employees that it would not close. In light of the credibility findings and the letter, we find insufficient evidence to set aside the election based on the alleged threats of closure.

Chairman Pearce would find that Judd's statements about vacation scheduling (Objection 3) constituted objectionable conduct. He similarly would find that the Employer engaged in objectionable conduct when supervisor Betsy Pankau questioned employee Kathleen Haff about an upcoming Union meeting (Objection 2), and when Dr. David Bordo asked employee Joanna Wegryzynowicz how she would have voted in the election (Objection 10). Even considering these additional objections, however, Chairman Pearce concludes that the Employer's objectionable conduct reached too few employees to have affected the outcome of the election.

Employees, and that it is not the exclusive representative of these bargaining-unit employees.

Dated, Washington, D.C., July 19, 2012.

Mark Gaston Pearce, Chairman

Brian E. Hayes, Member

Richard F. Griffin, Jr., Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD